

## **REMARKS**

### **I. Status Summary**

Claims 1-19 are all the claims pending in the application.

Applicant thanks the Examiner for accepting the drawings filed on June 1, 2010.

### **II. Claim Objections:**

Claim 11 is objected to for minor informalities. Applicant amends claim 11 to correct this typographical error.

### **III. Claim Rejections**

Claims 1-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Brunet et al (US 4,801,093) in view of Marelli et al (US 5,224,471).

Claims 5-7 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Brunet et al (US 4,801,093) in view of Marelli et al (US 5,224,471).

Applicant respectfully requests the Examiner to reconsider and withdraw these rejections for the reasons discussed below.

#### **A. Claim 1**

On pages 3-4, the Office Action alleged that claim 1 is obvious under 35 U.S.C. § 103. In making the rejection, the Office Action alleged, in part, that it would have been obvious for one of ordinary skill in the art to arrive at claim 1 by combining the spray head of Brunet with the lobes 3 (projections) of Marelli. Applicant respectfully submits that Brunet teaches away from having such lobes/projections 3 on the inner surface of the spray head forming the expulsion channel for the reasons detailed below.

Brunet is directed to a spray assembly. It provides a spray head with a channel 21 and profile 12. The insert 10 is substantially cylindrical, but has two flat parts 11 to limit the cross-sectional area through which the liquid can flow. Brunet discloses that a square cross-section bar can be used instead. Brunet specifically teaches that “recesses and protrusions formed on the internal surface of the push member...are **disadvantageous** because they are expensive to manufacture” and utilizes the integral formation of grooves on the wall 21b which “makes construction less expensive than the former practice of forming recesses or protrusions on an inner surface of the push-member” 2 (*see* col. 1, lines 16-20 and col. 3, lines 18-22, (emphasis added)). Thus, *Brunet teaches away from having recesses or protrusions on an inner surface of the channel 21 of the push member 2.*

In view of the teachings of Brunet, one would not have been motivated to modify Brunet “with the centering means taught by Marelli et al in order to provide a manner in which to better secure the insert under pressurized spraying”. Such a modification is completely contrary to one of the objectives of Brunet: to reduce manufacturing costs. Notably, Brunet holds the insert in place by the particular shape of the insert itself, instead of requiring recesses or protrusions on the inner surface of the member 2. See FIGS. 3 and 4.

MPEP § 2143.03(VI) states that “[a] prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention.” Accordingly, where cited art teaches away from a claimed feature, the cited art is not available for the purposes of an obviousness rejection. In the instant case, Brunet not only fails to teach or suggest the claimed centering means, but further teaches away from the use thereof. For instance, Brunet discusses that forming recesses and projections on the expulsion surface are too

expensive. Therefore, Brunet explicitly teaches away from recesses and projections on the inner surface of the member 2, i.e., channel 21.

Because Brunet teaches away from forming centering means on an inner surface of the channel, one of ordinary skill in the art would not modify Brunet to incorporate certain features of Marelli in an effort to arrive at the claimed invention. In fact, Brunet provides a clear discouragement of this modification. Accordingly, Applicant respectfully submits that the rejection is improper and respectfully requests that the rejection be withdrawn.

Not only does Brunet teach away from the alleged modification, but even if one were motivated to go against the specific teachings of Brunet, any modification of Brunet based on Marelli would still fail to arrive at the claimed invention.

In particular, the alleged centering means (3) of Marelli is provided to correspond with portion 9 of the insert. See FIG. 1 and 3. The cross sectional views of other portions of the stem show that the portion 10 of the insert is narrower than the inner surface of 2 to allow for the annular cylindrical space 12. That is, FIGS. 4 and 5 are directed to the cross sectional views of the assembly closer to the top end of the insert, whereas FIG. 3 illustrates the cross sectional view of the assembly lower down the stem. The alleged centering means of Marelli is not provided “at a location immediately adjacent a top end of the insert”. Thus, even if one were motivated to act contrary to the teachings of Brunet, at most one would have provided a structure in which the insert is held centered at a location that is far removed from the top end of the insert.

In view of the foregoing, the combination of cited references fails to arrive at the claimed invention at least because (1) Brunet teaches away from the alleged modification, and (2) Marelli

fails to disclose the claimed structural configuration for the centering means, thus, failing to provide the requisite teachings necessary to modify Brunet to arrive at claim 1.

#### B. Claim 11

Applicant respectfully submits that the rejection of claim 11 is also unsupported for the same reasons discussed above regarding claim 1. In particular, Brunet specifically teaches away from forming any projections on the inner surface of the member 2. Thus, one would not have modified Brunet to have “at least one radial projection [that] extends from the inside wall”.

Moreover, even if one were motivated to modify Brunet to have a projection, Marelli fails to disclose such projection “at a location immediately adjacent to a top end of the insert”. Rather, the only portion of the inside wall of the channel in Marelli that abuts the insert is located lower down the stem (at the cross section shown in FIG. 3). The portions of the device that are near the top end of the insert 10 **do not abut** the insert (see FIGS. 4, 5, and 6). Thus, even if one were to have combined the references, the alleged projection 3 of Marelli would not be provided in the same structural arrangement as the claimed invention.

In view of the foregoing, the combination of cited references fails to arrive at the claimed invention.

#### C. Dependent Claims

The remaining rejections are directed to the dependent claims. These claims are patentable for at least the same reasons as claims 1 and 11, by virtue of their dependency therefrom.

#### IV. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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